

DIST/OFFICE	DOCKET YR. NUMBER	FILING DATE MO. DAY YEAR	J	N/S	O	R	R 23	DEMAND \$ 267 OTHER	JUDGE NUMBER	JURY DEM.	DOCKET YR. NUMBER
1085/4	75 0523	11 13 75	4	190	1	22			8510	P	75 0523-C

PLAINTIFFS

O K C CORP.

DEFENDANTS

THE AETNA CASUALTY & SURETY
COMPANY, and SOUTH PRAIRIE
CONSTRUCTION COMPANY

OKC REFINING, INC.
OKC TRADING COMPANY
(Addit. party defts. added
9-7-76)

CAUSE

28 U.S.C. Sec. 1332 (Diversity): Suit against contractor and surety
for nonpayment of materials supplied by plaintiff subcontractor.

ATTORNEYS

J. Kevin Hayes (*π and addit party defts.*)
Fred S. Nelson
4100 Bank of Okla. Tower, One Williams
Tulsa, Oklahoma 74103 Center
(918) 588-2700

Wm. D. Curlee
James C. Chandler
LYLE SOULE & EMERY
2210 First National Center
Oklahoma City, Okla. 73102

D. E. Hammer
1300 National Bank of Tulsa Bldg.
Tulsa, Oklahoma 74103
583-1777

☐ CHECK
HERE
IF CASE WAS
FILED IN
FORMA
PAUPERIS

FILING FEES PAID

DATE	RECEIPT NUMBER	C.D. NUMBER

STATISTICAL CARDS

CARD DATE MAILED
JS-5 12-1-75/1-1-79
JS-6 3-1-77/4-1-79

DATE	NR.	PROCEEDINGS
<u>1975</u>		
11-13	1.	Complaint, filed. Summons issued. ph
11-25		Return on USM service, summons & compl., filed. Served South Prairie Construction Co. by serving the Corporation Co. on 11-17-75 at Okla. City, OK. Served The Aetna Casualty & Surety Co. by serving Gerald Grime, Insurance Commissioner, on 11-20-75 at Okla. City, OK. (USM: \$8.72) k
12-5	2.	ANSWER of defendants, filed. lm
12-23	3.	Request of Pltf, for Adm. of Facts and Genuiness of Documents, filed.jj
12-23	4.	Interrogatories of pltf., filed.jj
12-23	5.	Reply to Counterclaim, filed.jj
<u>1976</u>		
1-23	6	Answers of Deft. South Prairie Const. Co. to pltf's interrogs., filed.g
1-23	7	Answers of deft. South Prairie Const. Co. to request for admission of facts and genuiness of documents, filed. g
1-28	MO:	Case set for PT hearing 4-13-76 at 4:00 p.m. (HDC-J)hm
4-8	8	First set of Interrog., of Deft South Prairie Const., Company, filed.t
4-13	MO:	Pre-trial hearing held. Statements made. Parties represented. Deft. to file motion & brief within 2 weeks, Pltf. to ans. within 10 days; Discovery to be complete within 2 months; Pltf. waives Jury. Case set for for N/J trial on Aug. 9, 1976. (EST 1 day); PT order filed in open court. (HDC-J)ph
4-13	9.	Pre-trial order, filed in open court. (HDC-J)ph
4-27	10.	Memorandum Brief, fld. by Defts. v
5-10	11.	Plaintiff's response to defs. memo. brief, filed. rm
5-10	12.	Motion of pltf. to enlarge time to ans. 1st set of interrog., filed.rm
5-10	MO:	Ordered by the Ct. that pltf. is granted to 5/18/76 to answer first set of interrogatories of def. So. Prairie. (HDC-J)rm-ltr
5-24	13.	Stipulation and Protective Order, filed. (HDC-J)rm-copies mailed
5-26	14.	Answers of pltf. to first set of interrogatories of def. South Prairie, filed. rm
6-1	15.	Joint appl. for continuance of Non-Jury Docket of 8-9-76, filed. ph
6-2	16.	Order, filed, striking case from 8/ 9/76 non-jury docket and granting parties a continuance of 60 days before resetting. (HDC-J)rm-copies md.
7-6		Deposition taken by John W. Rice, Jr. on 6-30-76 (no name given), filed. g
8-5	MO:	Case set for N/J trial 11-1-76 at 9:30 a.m.; trial briefs due on or before 10-20-76. (HDC-J)hm (notices mailed)
8-23	17.	Deposition of David L. Crouch & Stanley H. Gwinn, Jr., filed. ph (\$45.90 pd by Don Hammer)
9-2	18.	Mo. of deft. So. Prairie for leave to file amended counterclaim to include additional parties, filed. hm w/leave of court signed by HDC on 9-7-76.
9-7	19.	Defts. ans. and first amended counterclaim of South Prairie against Pltf. OKC Corp., filed.

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. <u>75-C-523-C</u>
OKC CORP.		AETNA CASUALTY & SURETY	PAGE <u>3</u> OF <u>2</u> PAGES
DATE	NR.	PROCEEDINGS	
9-10-76	20.	Waiver of personal service and entry of appearance by addl. parties deft. OKC Trading Company and OKC Refining, Inc., filed. rm	
9-17	21.	Defts' notice of taking deposition of Lee E. Fry on 9-22-76 at 1:30 p.m., filed. ph	
9-20	22.	Notice by pltf. & addl. parties of taking depositions of Adrian M. Burk on 9/27/76 in Houston, filed. rm	
9-27	23.	Pltf's appl. for ext. of time to ans. first amended counterclaim, filed. ph <i>stop</i>	
9-27	24.	Order, filed, that pltf. and addit. party defts' time to ans. Defts' first amended counterclaim is extended to 10-10-76. (HDC-J)ph cps mld	
10-6		USM service of dep. subpoenae in Houston, Tx. ret. & filed: served Adrian M. Burk 9-22-76, Don Nash 9-23-76; unserved as to John Stanich, Charles G. Sones, K. S. Bud Adams, Jr. & L. W. Fisher at rew. of atty. (USM \$9.76)g	
10-12	25.	Reply of Pltf. & additional party defts. OKC Refining and OKC Trading to first amended counterclaim, filed. ph	
10-12	26.	Notice of taking deposition of L. E. Riffe on 10-15-76 at Tulsa, OK, filed. ph subpoena issued.	
10-14	27.	Motion for protective order and motion to limit examination of L. E. Riffe, Chairman of the Bd. of Riffe Pet. Co., filed. ph <i>stop</i>	
10-14	28.	Memo. brief in support of mo/protective order and mo/limit scope and manner of taking of a deposition, filed. ph	
10-18	MO:	Upon agreement of parties Motion for Protective Order and Motion to Limit Examination is now moot. (HDC-J)ph ltr. mld.	
10-20	29.	<i>L. E. Riffe</i> List of witnesses of defts. The Aetna Casualty & Surety and South Prairie Const. Co., filed. ph	
10-20	30.	Trial brief of defts. South Prairie Const. Co. and the Aetna Casualty & Surety Co., filed. ph	
10-22		Deposition of Myron Blume, filed. g	
10-26	--	Subpoena, ret & filed: Served C. H. Harris on 10-22-76 at Federal Courthouse, Tulsa, OK. ph (Fees \$.75)	
10-26	--	Subpoena, ret & filed: Served Lee E. Fry, on 10-23-76 at Broken Arrow, OK, filed. ph (\$4.50 fees)	
10-27	31.	Trial brief of pltf., OKC Corp. and Addit. party defts. to counterclaim OKC Refining and OKC Trading Co., filed. w/leave granted to file out of time. (HDC-J)ph Pltf. to pick up extra copies.	
10-28	--	Deposition of L. E. Riffe taken on 10-15-76, filed. (L.J. Christesson-C.S.R.)ph (\$115.50 pd by McMichael Asphalt Sales, Tulsa Paving, Aetna Casualty & Surety and South Prairie Const.)	
10-28	--	Deposition of Cloyce Box taken on 9-17-76, filed. (L.J. Christesson-CSR)ph (\$208.50 pd by McMichael Asphalt, Tulsa Paving, Aetna Casualty & Surety and South Prairie Const.)	
10-28	--	Depositions of G. E. Moore and R. V. Hiltibrand, taken on 5-6-76, filed. (L.J. Christesson-CSR)ph	
10-28	--	Deposition of Freeman M. Bernard taken on 10-5-76, filed. (L.J. Christesson-CSR)ph (\$97.50 pd by McMichael Asphalt, Tulsa Paving and South Prairie Construction)	
10-28		Deposition of John Stanich, filed. hm	
10-28		Deposition of Kenneth Stanley Adams, Jr., <i>(cont.)</i> filed. hm	

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. <u>75-C-523-C</u>
OKC CORPORATION		AETNA CASUALTY & SURETY CO.	PAGE <u>4</u> OF <u>2</u> PAGES
DATE	NR.	PROCEEDINGS	
<u>1976</u>			
10-29	--	Deposition of Billie Tubbs, filed. ph (\$30.80 pd by pltf.)	
10-29	32.	Proposed Defts' exhibits, filed. ph	
11-1	33.	Proposed Exhibits of pltf., filed. ph	
11-1	MO:	Case called for non-jury trial. Parties announce ready. Case continued to 9:30 a.m. on 11-2-76. (HDC-J)hm	
11-1	34.	Supplemental trial brief of pltf. OKC Corp. and addit. party defts. OKC Refining and OKC Trading Co., filed. ph	
11-1	35.	List of witnesses of pltf., OKC Corp. and addit. party defts., OKC Refining and OKC Trading, filed. ph	
11-1	36.	Supplemental trial brief of defts. South Prairie Const. Co. and Aetna Casualty & Surety Co., filed. ph	
11-2	37:	Designation of deft. of deposition testimony, filed in open court.hm	
11-3	38.	Pltf's designation of deposition testimony, filed in open court. hm	
11-3	MO:	Case tried to the Court Nov. 2&3. Don Detrick admitted for purposes of this case. Oath administered. Parties announce ready. Rule invoked. Deft. moves for leave to amend claim for damages to amt. of \$414,119.47. Opening statements waived. Pltf. presents case in chief w/test. of witnesses and introduction of exhibits. Pltf. rests on original complaint. Deft's motion for dismissal denied. Deft. presents case in chief w/test. of witnesses and introd. of exhibits & rests. Both parties rest on original complaint. Parties offer portions of depositions as designated by pleadings and those portions are admitted. Deft. to file written objections to test. contained in depositions of Stanich & Adams by 11-8-76. Pltf. given until 11-12 to respond to said objections. Deft. presents case in chief w/test. of witnesses & rests on counterclaim. Pltf. presents its case in chief w/test. of witnesses & rests on counterclaim. Parties given until 11-12 to file suggested F/F & C/L. Oral arguments to be set at a later date. Court grants leave for deft. to amend claim. (HDC-J)hm	
11-3		Trial exhibits, filed. (in exhibit room)	
11-8	39.	Defts' obj. to testimony and exhibits offered by pltf. by depos., filed. ph	
11-12		Deposition of Adrian Matthew Burk, taken on 9/27/76 in Texas, filed. (Clendening Reporting Service)rm	
11-12		Deposition of Donald R. Nash, taken on 9/27/76 in Texas, filed. (Clendening Reporting Service) rm	
11-12	40.	Pltf's reply to defts' obj. to testimony and exhibits offered by depos., filed. ph	
11-12	41.	Pltf's proposed F/F and C/L, filed. ph	
11-15	42.	Def. proposed FF/CL, filed, with leave of Court. (HDC-J)rm	
11-24		Deposition of Lee E. Fry, taken on behalf of def. South Prairie on 9/22/76, filed. (D. R. Lindquist-CR)(\$133.50 pd by def) rm	
12-1	MO:	Case set for final arguments 2-3-77 at 9:30 a.m. (HDC-J)hm (notices mailed)	
1-21-77	43.	Order, filed, that defts' obj. to test. & exhibits offered by pltf. by depos. is overruled. (HDC-J)hm (copies mailed)	

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. <u>75-C-523-C</u>
OKC CORPORATION		AETNA CASUALTY	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
2-3-77	MO:	Case called for final arguments. Closing arguments made. Court makes findings & enters judgment in favor of pltf. & against defts. Aetna & South Prairie in amt. of \$266,257.14, plus int. at rate of 6% from date of each invoice, plus 10% per annum from date of judgment until paid, plus atty's fees. Pltf. directed to file statement of atty's fees within 5 days; deft. granted 5 days thereafter to respond or object. On issue of counterclaim of So. Prairie against pltf., counterclaim denied, judgment entered for pltf. Pltf. to prepare final judgment, to be submitted by 2-14-77. Judgment not effective until signed & filed by the Court. Pltf. allowed to file applic. for atty. fees on counterclaim, w/deft. to respond. (HDC-J)hm	
2-10	44.	Pltf's statement of attys' fees, filed. ph	
2-11		Reporter's transcript of final arguments had on 2/3/77, filed.rm (T. Bloxom-CR)	
2-10	45.	Bill of costs in amt. of \$1,977.48 filed by pltf. Cost hearing set before Clerk for 2/23/77 at 10 a.m.(JCS-Clk)rm	
2-14	46.	Judgment, filed and entered, that pltf. OKC Corp. recover from defts. Aetna Casualty & Surety and South Prairie Const. Co. the sum of \$266,257.14, w/int. at rate of 6% per annum from date each invoice became past due, w/int. at rate of 10% per annum from date of judgment until paid, costs and reasonable atty's fees; further ordered that deft. South Prairie Const. Co. take nothing on its counterclaim against pltf. OKC Corp. and the addit. party defts. OKC Refining and OKC Trading Co., that said counterclaim be dismissed on merits and that pltf. and addit. party defts recover of deft. Cost of action and reasonable atty's fees. (HDC-J)ph cps mld	
2-22	47.	Response of defts. to pltf's statement of atts' fees, filed. ph	
2-24	Min:	Cost hearing held before Clerk. Counsel present. Costs taxed in amt. of \$1,434.77 in favor of pltf. and against def.(JCS-Clk)rm	
2-28	48	Pltf. brief in support of Pltf's statement of attorneys fees. fld ho	
3-15	49.	Notice of appeal by def. South Prairie from judg. of 2/14/77, filed.rm (copy to USCA)	
3-15	50	Bond for costs on appeal (\$250 cash), filed. rm	
3-25	51.	Joint designation of record on appeal, filed. rm	
4-12	52.	Order, filed, that a determination in regard to reasonable attys' fees will be held in abeyance pending a final disposition of this action on appeal. (HDC-J)ph cps mld	
4-14	---	Reporter's transcript of nonjury trial proceedings had on 11/1 and 11/3/76, filed. (Tom Bloxom-CR) rm	
4-15	---	Original record on appeal (5 vols) transmitted to USCA. rm	
5-10		Letter from 10th Circuit assigning No. 77-1312. rm	
12-26-78	53	Mandate and opinion of 10th Circuit, filed and spread of record, reversing judg. & remanding for further proceedings consistent with opinion. rm	

(over)

DC-111A (Rev. 1/75)

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF OKC		DEFENDANT AETNA CASUALTY	DOCKET NO. <u>75-C-523-C</u> PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
1978			
12-26	54.	Statement of costs from 10th Circuit, filed and taxed in amount of \$65.00 against appellee, OKC Corp., and in favor of appellant. rm	
1979			
1-15	---	Orig. appeal record (5 vols) received from 10th Circuit. rm	
3-12	55	Stip. for dismissal of defts' ctr-claim, fld.ra	
3-12	56	Applic. for order of dismissal, fld.ra (O)	
3-14	57	Order of dismissal with prejudice of defts' ctr-claim, fld and entered. (HDC-J)ra cps mld	
3-14	58	Release & satisfaction of judgement of OKC Corp as to Aetna Casualty & Surety Co. and South Prairie Construction Co.; OKC Corp acknowledges satisfaction of the judgement dated 2-14-77 awarded to OKC Corp.ra	
8-5	--	DEPOSITION & EXHIBITS returned to counsel. hm	
4-28-82	59	APPLIC of debt, South Prairie Constr. to disburse funds.(O part of applic & to J)a	
5-7-82	--	ORDER directing Clk to disburse the \$250. from the registry of this Ct. to South Prairie Construction Co % James C. Chandler. (HDC-J)jc(c/atty)	

2-21-79: Kevin Hayes called to advise
that case has settled - will
bring in stipulation soon